

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION

In the Matter of)	
)	
Implementation of Section 224 of the Act)	WC Docket No. 07-245
)	
)	
A National Broadband Plan for Our Future)	GN Docket No. 09-51
)	

**Reply Comments of the
National Rural Electric Cooperative Association**

Of Counsel:

**M. GLORIA TRISTANI
TILLMAN L. LAY
SPIEGEL & McDIARMID LLP
1133 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20036
202-879-4000**

**TRACEY STEINER
DAVID PREDMORE
NATIONAL RURAL ELECTRIC
COOPERATIVE ASSOCIATION
4301 WILSON BOULEVARD
ARLINGTON, VA 22203-1860
703-907-5500**

Attorneys for the National Rural Electric Cooperative Association

October 4, 2010

TABLE OF CONTENTS

I.	The Electric Cooperative Exemption from FCC Pole Attachment Jurisdiction Continues to Be Sound Public Policy	5
A.	<i>No data is presented in the initial comments that support repealing the exemption, and in fact, NRECA's survey data confirms the continuing wisdom of the exemption today.....</i>	<i>5</i>
B.	<i>The Commission should resist pleas to call on Congress to revoke the exemption.....</i>	<i>8</i>
II.	All Pole-Ownning Utilities Share the Same Safety and Reliability Concerns	9
A.	<i>All sectors of the electric industry, with considerable agreement from the pole-owning telephone companies, expressed concerns with the NPRM proposals that could compromise safety and infrastructure reliability.....</i>	<i>9</i>
B.	<i>The Commission lacks sufficient information at this time to proceed with the NPRM's proposals for wireless attachments.....</i>	<i>11</i>
C.	<i>Utilities' experiences with unauthorized attachments are not "overblown."</i>	<i>12</i>
D.	<i>The Commission should authorize sufficient deterrents for making unauthorized attachments as well as attachments that violate applicable safety standards.....</i>	<i>14</i>

EXECUTIVE SUMMARY

In these reply comments, NRECA responds to certain statements and allegations made by various parties that submitted initial comments in this proceeding. In particular, NRECA voices its strong opposition to the pleas of a few commenters that the Commission should urge Congress to upend the limitations on the Commission's pole attachment jurisdiction that have stood for 32 years. NRECA also continues to reiterate that several of the NPRM's proposals are based upon a faulty assumption that lowering pole attachment rates will naturally result in greater broadband deployment in rural and unserved areas. NRECA's own data strongly refutes any such assumption.

In addition, NRECA takes strong issue with those commenters who cavalierly assert that utilities' safety and reliability claims, particularly those regarding unauthorized attachments, are "overblown." NRECA's own research confirms that utilities' safety and reliability concerns are real and that unauthorized attachments are all too common. We also identify significant agreement among commenters regarding wireless attachment issues. Despite self-serving assertions by wireless providers that wireless attachments do not raise unique or different safety concerns, NRECA urges the Commission to follow the lead of the state utility commission representative who participated in the September 28, 2010 public workshop¹ by deferring action on wireless attachments for now until more information is gathered. NRECA believes that before holding pole-owning utilities to a timeline for wireless attachments or authorizing specific attachment practices for wireless equipment, the Commission should consider holding technical conferences and invite participation from both wireless service providers and pole owners.

¹ *Wireline Competition Bureau Announces September 28, 2010 Pole Attachments Workshop*, Public Notice, DA 10-1738 (rel. Sept. 14, 2010) available at: http://www.fcc.gov/Daily_Releases/Daily_Business/2010/db0914/DA-10-1738A1.pdf.

NRECA continues to support the National Broadband Plan's goals of universal and affordable broadband for all Americans. As NRECA has pointed out many times over, the low population density of many rural areas remains the single, most significant barrier to universal broadband deployment, not pole attachment rates or practices. The NPRM's assumptions that more and faster deployments will result from lowering pole rental rates and "green lighting" practices that could compromise safety and electric system reliability lack an empirical foundation. Most of the NPRM's proposals amount to shifting more of the attaching entities' costs of doing business on to electric utility consumers, whether or not those utility consumers are ever provided with broadband services. NRECA cannot support such a misguided policy that merely creates a windfall for CATV and telecommunications attachers' shareholders at the expense of electric utility consumers.

INTRODUCTION

The National Rural Electric Cooperative Association ("NRECA") appreciates this opportunity to respond to initial comments filed in the Federal Communications Commission's ("FCC" or "Commission") Notice of Proposed Rulemaking ("NPRM") proceeding.² NRECA is the national service organization for more than 900 not-for-profit, rural electric utilities that provide electric energy to approximately 42 million consumers in 47 states. Rural electric cooperatives ("Electric Cooperatives" or "Electric Co-ops") serve 18 million businesses, homes, schools, churches, farms and other establishments and account for about 11 percent of all kilowatt-hour sales of electric energy in the United States. The median Electric Co-op has 12,941 consumers. Electric Cooperatives own and maintain 2.5 million miles or 42 percent of

² *Implementation of Section 224 of the Act; A National Broadband Plan for Our Future*, WC Docket No. 07-245, GN Docket No. 09-51 (rel. May 20, 2010), 75 *Fed. Reg.* 41,338 (July 15, 2010) ("NPRM").

the nation's electric distribution lines, which traverse approximately 75 percent of the nation's land mass.

While 47 U.S.C. § 224(a)(1) of the Communications Act ("the Act")³ expressly exempts Electric Cooperatives from the FCC's pole attachment jurisdiction, NRECA continues to be concerned that any rule changes eventually adopted by the Commission as a result of the NPRM will negatively impact Electric Cooperatives and their consumer-members. First, the Commission's rules are often held up as the benchmark or *de facto* standard in Electric Co-ops' pole attachment agreement negotiations with cable television ("CATV") and telecommunications attachers. Further, in states where Electric Co-ops are subject to state public utility commission regulation, pole attachment rule changes made by the Commission likely will invite reexamination of their existing rules by the state commissions.

DISCUSSION

I. THE ELECTRIC COOPERATIVE EXEMPTION FROM FCC POLE ATTACHMENT JURISDICTION CONTINUES TO BE SOUND PUBLIC POLICY.

A. *No data is presented in the initial comments that support repealing the exemption, and in fact, NRECA's survey data confirms the continuing wisdom of the exemption today.*

Since 1978, Electric Cooperatives and government-owned utilities as well as railroads have been exempt from the Commission's pole attachment regulation. The legislative history for the exemption found in 47 U.S.C. § 224(a)(1) clearly shows a recognition of the fact that Electric Cooperatives charge low, cost-based rates for pole attachments and that they have an added incentive to do so to encourage deployments, negating a need for federal oversight:

³ 47 U.S.C. § 224, *et. seq.*

“Because the *pole rates charged by municipally owned and cooperative utilities are already subject to a decision making process based upon constituent needs and interests*, S. 1547, as reported, exempts these utilities from F.C.C. regulation. Presently cooperative utilities charge the lowest pole rates to CATV pole users. CATV industry representatives indicate only a few instances where municipally owned utilities are charging unsatisfactorily high pole rental fees. These rates presumably reflect what local authorities and managers of customer-owned cooperatives regard as equitable distribution of pole costs between utilities and cable television systems. Cooperatively owned utilities, by and large, are located in rural areas where often over-the-air television service is poor. Thus the customers of these utilities have *an added incentive to foster the growth of cable television* in their areas. Many stockholders of power or electric cooperatives also subscribe to cable television systems.⁴

As noted in our initial comments, NRECA recently conducted a survey of its members to determine the current state of Electric Cooperative pole attachment practices.⁵ Data collected by NRECA earlier this year proves that Congress’ reasons for providing the exemption have not changed. NRECA’s survey clearly demonstrates that Electric Cooperative pole attachment rates are still low and cost-based, with the average annual rental rate charged as of December 31, 2009 being \$10.38.⁶ This figure represents a mere \$1.00 increase over the average rate found in a

⁴ S. Rep. No. 95-580, at 18 (1997), reprinted in 1978 U.S.C.C.A.N. 109, at 126 (emphasis added).

⁵ Comments of NRECA filed in WC Docket No. 07-245, GN Docket No. 09-51 (filed Aug. 16, 2010) (referring to NRECA Market Research’s survey conducted in April 2010 to which 600 Electric Co-ops responded and a brief follow-up survey in July to which 324 Electric Co-ops responded.) (“NRECA Comments”).

⁶ This is the average rate for Electric Cooperatives that charge on a per pole basis and that charge the same rate regardless of the type of attachment. This rate structure is being used by the majority of survey respondents.

similar survey conducted seven years ago by NRECA. This year's survey found that rates were lowest – averaging just \$5.50 (median) and \$6.33 (mean) – where Electric Cooperatives are serving in very low population density areas, defined in our survey as fewer than four consumers per mile of electric distribution line.

In the initial comments, only one ILEC, CenturyLink, asserts that the rates being charged by cooperatives and government-owned utilities are becoming “increasingly problematic” and “dramatically” increasing.⁷ No empirical evidence whatsoever is provided to substantiate these bald assertions. In fact, the associations representing rural telecommunications service providers – the joint comments of the National Telecommunications Cooperative Association, The Organization for the Promotion and Advancement of Small Telecommunications Companies, the Western Telecommunications Alliance and the Eastern Rural Telecom Association (“Associations”) – do not share this view at all. According to the Associations, their members’ pole attachment concerns lie chiefly with investor-owned utilities, not with Electric Cooperatives or government-owned utilities.⁸

CenturyLink further speculates that these alleged rate increases are “to offset rising energy costs.”⁹ While it is true that electric utilities are facing rising energy costs, this speculation shows a fundamental lack of understanding of the cooperative business structure and the tax treatment of cooperatives, which prohibit the type of cross-subsidization that is being

⁷ Comments of CenturyLink, WC Docket No. 07-245, GN Docket No. 09-51 (filed Aug. 16, 2010) at 50 (“CenturyLink Comments”).

⁸ Joint comments of National Telecommunications Cooperative Association, The Organization for the Promotion and Advancement of Small Telecommunications Companies, Western Telecommunications Alliance and Eastern Rural Telecom Association, WC Docket No. 07-245, GN Docket No. 09-51 (filed Aug. 16, 2010) at 6.

⁹ CenturyLink Comments at 51.

implied.¹⁰ Simply put, Electric Cooperatives cannot raise pole attachment rental rates to directly offset rising costs associated with providing electric service. The reverse is also true, Electric Co-ops cannot charge less than it costs them to provide rental space on their poles by having electric consumers make up the difference in higher electric rates.

B. The Commission should resist pleas to call on Congress to revoke the exemption.

Despite the lack of any empirical support for its assertions and the “positive” relationships with Electric Cooperatives, municipalities and public utility districts,¹¹ CenturyLink urges the Commission to ask Congress to amend Section 224 to eliminate the exemptions for Electric Cooperatives and others.¹² Importantly, only two other commenters claim – again, without any real data supporting their assertion – that rural deployment objectives cannot be achieved without “reform,” that is, to bring those entities that are now exempt under the Commission’s jurisdiction.¹³ No commenter has provided any compelling evidence in this proceeding that (1) federal pole attachment regulation of Electric Cooperatives is necessary to address widespread, unreasonable pole attachment rate setting or other practices, or (2) lowering Electric Co-op’s pole attachment rates would, in fact, provide the incentive required to further broadband deployment. To reiterate our initial comments, NRECA is very doubtful that any savings that would result from lower pole attachment fees would be used by broadband service providers to fund further broadband deployment to high-cost rural areas or be passed on directly

¹⁰ Comments of NRECA, WC Docket No. 07-245 (filed April 22, 2009) at 6 (noting that federal income tax law requires cooperatives to operate at cost and to equitably allocate costs and expenses).

¹¹ CenturyLink Comments at 50.

¹² Id. at 3.

¹³ Comments of Bob Matter Consulting, WC Docket No. 07-245, GN Docket No. 09-51 (filed Aug. 16, 2010) at 6 *and* Comments of Qwest Communications Intl., WC Docket No. 07-245, GN Docket No. 09-51 (filed Aug. 16, 2010) at 18 (“Qwest Comments”).

to broadband consumers.¹⁴ As NRECA has long asserted, low pole rates simply do not translate into more rural broadband deployments. *The simple fact is that Electric Cooperatives are already charging low pole attachment rental rates, and yet many rural areas still remain unserved.* NRECA’s survey identified that the most-cited reason why Electric Cooperatives do not have more poles with broadband attachments is that no service provider has requested to make attachments.¹⁵

The Commission has prided itself on making decisions that are “data driven.” Real data is what NRECA has provided in this proceeding. NRECA’s data refutes the NPRM’s assumptions that lowering pole attachment rates will spur deployment. Data from NRECA’s survey likewise clearly disproves the opening comment assertions of just two ILECs and one of their consulting firms that Electric Co-op rates for ILEC attachments (which are not subject to the FCC’s jurisdiction) are excessive. If the Commission is to be truly guided by data, then it cannot ignore data that directly contradicts the NPRM’s assumptions. Therefore, the Commission should reconsider its pole attachment rental rate proposals and should reject the handful of pleas that the Commission lobby Congress to repeal the exemptions in Section 224(1).

II. ALL POLE-OWNING UTILITIES SHARE THE SAME SAFETY AND RELIABILITY CONCERNS.

A. All sectors of the electric industry, with considerable agreement from the pole-owning telephone companies, expressed concerns with the NPRM proposals that could compromise safety and infrastructure reliability.

NRECA’s initial comments urged the Commission not to sacrifice safety and reliability for the sake of a speedier pole attachment process.¹⁶ NRECA’s position is that holding pole

¹⁴ NRECA Comments at 38.

¹⁵ *Id.* at 27.

¹⁶ *Id.* at 7-8.

owners to a strict timeline for all phases of the pole attachment process is not practical and would undermine safety and infrastructure reliability through an inappropriate diversion of utility resources. Others share our views, including the Edison Electric Institute (“EEI”) and the Utilities Telecom Council (“UTC”), which said “the FCC’s proposed timelines for make-ready work are unreasonable,”¹⁷ the Coalition for Concerned Utilities (“Coalition”), which called the timelines “unworkable and unwise,”¹⁸ and the American Public Power Association (“APPA”), which said that a mandatory timeline would divert utility resources away from their core function.¹⁹ We further agree with those who said that the record does not demonstrate the necessity of imposing such a timeline.²⁰

Assuming the Commission proceeds with adopting a mandatory timeline, most pole owners stressed the need for flexibility in any timeline. Flexibility is needed for several reasons, including variations in the type and number of attachment requests, utility workload, regional differences, and circumstances that are beyond the utility’s control.²¹ NRECA believes the Commission should explore other alternatives to a rigid timeline that were suggested in the initial comments, such as either providing much greater flexibility in the timeline²² or treating the timeline as a rebuttable presumption rather than a hard and fast rule.²³

¹⁷Comments of EEI and UTC, WC Docket No. 07-245, GN Docket No. 09-51 (filed Aug. 16, 2010) at 13 (“EEI/UTC Comments”).

¹⁸Comments of Coalition, WC Docket No. 07-245, GN Docket No. 09-51 (filed Aug. 16, 2010) at 11-15 (“Coalition Comments”).

¹⁹Comments of APPA, WC Docket No. 07-245, GN Docket No. 09-51 (filed Aug. 16, 2010) at 22-23 (“APPA Comments”).

²⁰See, e.g., Comments of the Alliance for Fair Pole Attachment Rules, WC Docket No. 07-245, GN Docket No. 09-51 (filed Aug. 16, 2010) at 9-10 (“Alliance Comments”); APPA Comments at 23-25; EEI/UTC Comments at 18; *and* Coalition Comments at 14-26;

²¹See, e.g., NRECA Comments at 8-10; APPA Comments at 23-24; EEI/UTC Comments at 15; Alliance Comments at 44-48; *and* Coalition Comments at 20-29.

²²APPA Comments at 23-24.

²³Alliance Comments at 16 *and* EEI/UTC Comments at 16.

Pole owners also uniformly expressed concerns regarding the mandatory use of contractors in certain circumstances.²⁴ APPA aptly notes that a utility is “ultimately accountable for what happens on, and around, its poles and it therefore needs to be involved in the authorization and approval of *all work* performed on its poles.”²⁵ The Independent Telephone and Telecommunications Alliance (“ITTA”) and the Coalition agreed with NRECA’s observations in our initial comments that pole owners’ safety and reliability concerns do not end at the completion of the make-ready phase, but continue through the actual installation of the attachments.²⁶ A number of commenters also noted concerns with being able to locate qualified personnel, a concern shared by many Electric Cooperatives, particularly those serving in more rural and remote locations.²⁷ NRECA believes that the record clearly supports abandoning the NPRM’s strict timeline proposals. Instead, the Commission should consider adopting a case-by-case approach that favors negotiated agreements between the relevant parties regarding when contractors are to be used and how their work will be directed and supervised.

B. The Commission lacks sufficient information at this time to proceed with the NPRM’s proposals for wireless attachments.

As discussed in our initial comments, NRECA believes the Commission does not have enough information at this time to adopt the NPRM proposals related to wireless attachments. Other commenters share this view.²⁸ The DAS Forum claims that utility concerns about pole-top

²⁴ See, e.g., EEI/UTC Comments at 35; Coalition Comments at 49; APPA Comments at 26; Comments of ITTA, WC Docket No. 07-245, GN Docket No. 09-51 (filed Aug. 16, 2010) at 3-4 (“ITTA Comments”); and Qwest Comments at 11.

²⁵ APPA Comments at 26 (emphasis added).

²⁶ See, e.g., ITTA Comments at 3 and Coalition Comments at 49.

²⁷ See, e.g., APPA Comments at 26; Alliance Comments at 62; and Coalition Comments at 51.

²⁸ See, e.g., Coalition Comments at 39 and Joint Comments of Ameren Services Company, CenterPoint Energy Houston Electric, LLC, and Virginia Electric Power Company, together, the Pole Owners Working for Equitable Regulation “POWER” Coalition, WC Docket No. 07-245, GN Docket No. 09-51 (filed Aug. 16, 2010) at 12 (“POWER Coalition Comments”).

attachments are “unfounded,”²⁹ but both electric and telephone pole owners strongly disagree, arguing that such attachments merit special attention and safety precautions.³⁰ Indeed, some of the state public utility commission representatives at the September 28, 2010 public workshop remarked that considerable, additional investigation and deliberation were required to understand the unique safety, reliability and engineering concerns associated with wireless attachments, particularly those located above the energized lines. Further, there was substantial agreement in the initial comments that wireless attachments present distinct challenges and, therefore, should not be subject to the same time frames that the NPRM proposes for wireline attachments.³¹ The Commission should not make judgments that could endanger the lives of utility workers and others and potentially jeopardize electric system reliability based on the self-serving and unsupported assertions of the wireless industry.

C. Utilities’ experiences with unauthorized attachments are not “overblown.”

A number of attaching entities seek to characterize utilities’ reports of unauthorized attachments as “overblown,” or “unreliable.”³² As noted in NRECA’s initial comments, the

²⁹ Comments of The DAS Forum, WC Docket No. 07-245, GN Docket No. 09-51 (filed Aug. 16, 2010 at 17. *See also*, Comments of MetroPCS Communications, Inc., WC Docket No. 07-245, GN Docket No. 09-51 (filed Aug. 16, 2010) at 13 (referring to utilities’ safety and reliability concerns as “phantom concerns”).

³⁰ *See, e.g.*, ITTA Comments at 2-3; Coalition Comments at 36-43; EEI/UTC Comments at 26; APPA Comments at 25; Qwest Comments at 10; *and* POWER Coalition Comments at 12.

³¹ *See, e.g.*, EEI/UTC Comments at 26; APPA Comments at 11; Coalition Comments at 37; Comments of Oncor Electric Delivery Company, LLC, WC Docket No. 07-245, GN Docket No. 09-51 (filed Aug. 16, 2010) at 33; Qwest Comments at 10; Comments of CPS Energy, WC Docket No. 07-245, GN Docket No. 09-51 (filed Aug. 16, 2010) at 11; Joint Comments of Florida Power & Light Company, Tampa Electric Company, Progress Energy Florida, Inc., Gulf Power Company, and Florida Public Utilities Company, WC Docket No. 07-245, GN Docket No. 09-51 (filed Aug. 16, 2010) at 28- 29; ITTA Comments at 2; *and* POWER Coalition Comments at 12.

³² *See, e.g.*, Comments of tw telecom inc. and COMPTTEL, WC Docket NO. 07-245, GN Docket No. 09-51 (filed Aug. 16, 2010) at 32; Comments of Time Warner Cable Inc., WC Docket No. 07-245, GN Docket No. 09-51 (filed Aug. 16, 2010) at 30; Comments of Comcast Corporation, WC Docket No. 07-

extent to which Electric Cooperatives have experienced unauthorized attachments varies; however, 87% reported having found unauthorized attachments on their poles.³³ NRECA's 2010 survey found a mean average of 1,026 unauthorized CATV attachments and a mean average of 1,240 unauthorized telephone company attachments, per Electric Co-op.³⁴ The Alliance calls the problem of unauthorized attachments "severe,"³⁵ EEI/UTC's comments describes them as "pervasive."³⁶ APPA's comments refer to unauthorized attachments as a "significant and persistent problem."³⁷ The Coalition characterizes them "widespread and dangerous."³⁸ Comments extending back into the earlier stages of Docket No. 07-245 provide ample evidence that, indeed, the problem of unauthorized attachments is anything but "overblown," and thus merits action by the Commission to impose a deterrent.

Despite the documentation in the record, a number of attachers attempt to shift the blame for the number of unauthorized attachments to electric utilities, saying that the problem is really "poor recordkeeping."³⁹ These assertions have the hollow ring of a convenient excuse. Electric Cooperatives over many years have expressed frustration with finding unmarked attachments when they conduct their pole inventories. Some Electric Cooperatives have also told NRECA that divestitures, mergers, consolidations, and bankruptcies among attaching entities further complicate the task of identifying which entity owns which attachment, as it is not common

245, GN Docket No. 09-51 (filed Aug. 16, 2010) at 33 ("Comcast Comments"); *and* Comments of Bright House Networks, WC Docket No. 07-245, GN Docket No. 09-51 (filed Aug. 16, 2010) at 28.

³³ NRECA Comments at 21, citing results of NRECA's 2010 member survey.

³⁴ The total average number of pole attachments for an Electric Cooperative reported in the 2010 survey was 14,610.

³⁵ Alliance Comments at 73.

³⁶ EEI/UTC Comments at 55.

³⁷ APPA Comments at 30.

³⁸ Coalition Comments at 96.

³⁹ *See, e.g.*, Comments of the National Cable & Telecommunications Association, WC Docket No. 07-245, GN Docket No. 09-51 (filed Aug. 16, 2010) at 43; Comments of Charter Communications, WC Docket No. 07-245, GN Docket No. 09-51 (filed Aug. 16, 2010) at 27; *and* Comcast Comments at 34.

practice for the successor companies to re-tag existing attachments. For this reason, NRECA has encouraged its members to include provisions in their pole attachment agreements specifically obligating attachers to appropriately mark their facilities.

D. The Commission should authorize sufficient deterrents for making unauthorized attachments as well as attachments that violate applicable safety standards.

NRECA's initial comments expressed support for the NPRM's consideration of the Oregon Commission's penalty system to deter unauthorized attachments, which NRECA's Oregon members have generally found to be effective in reducing the number of such attachments.⁴⁰ We reiterate that support here. Others also voiced support for presuming that the Oregon Commission's system was just and reasonable.⁴¹ Still others generally supported a penalty structure without specific reference to Oregon⁴², or favored Commission adoption of Oregon's system with some modification.⁴³ The testimony of J.R. Gonzales at the September 28, 2010 public workshop confirmed the success of their penalty system. The Commission should therefore move ahead with these proposals. NRECA further urges the Commission to authorize a similar penalty scheme for attachments that violate applicable safety standards, as supported in our initial comments as well as others.⁴⁴

Conclusion

The proposals in the Commission's NPRM have a noble purpose underlying them: to spur broadband deployment. But the Commission should not let the worthiness of its objective

⁴⁰ NRECA Comments at 21-22.

⁴¹ See, e.g., EEI/UTC Comments at 56-57 and Alliance Comments at 75-76.

⁴² APPA Comments at 30.

⁴³ APPA Comments at 30-31 and Coalition Comments at 100-102.

⁴⁴ See, e.g., NRECA Comments at 23-25; EEI/UTC Comments at 56-57; and Coalition Comments at 99-103.

crowd out data and actual experience that show many of the NPRM's proposals are misguided. Should the Commission nonetheless decide to proceed with changing its pole attachment rules, NRECA urges the Commission to: (1) provide much greater flexibility in the make-ready, installation and contracting processes for wireline attachments than originally proposed or consider such processes as rebuttable presumptions; (2) permit penalties to be imposed on attachers for unauthorized attachments; and (3) gather more information through a collaborative process before setting any specific rules regarding wireless attachments. Further, the Commission should not adopt the NPRM's proposals to revise pole rate formulas that shift attachers' costs of doing business onto utility ratepayers when there is absolutely no guarantee that this subsidy will result in more and faster broadband deployment to unserved areas.

Respectfully submitted,

/s/
Of Counsel:

**M. GLORIA TRISTANI
TILLMAN L. LAY
SPIEGEL & McDIARMID LLP
1133 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20036
202-879-4000**

/s/
**TRACEY STEINER
DAVID PREDMORE**

**Attorneys for the
NATIONAL RURAL ELECTRIC
COOPERATIVE ASSOCIATION
4301 WILSON BOULEVARD
ARLINGTON, VA 22203-1860
703-907-5500**

October 4, 2010